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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,655	07/18/2003	Erick B. Knezek	027452-0102	1049

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

LEE, JONG SUK

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,655

Applicant(s)

KNEZEK ET AL.

Examiner

Jong-Suk (James) Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,8-17,19,20 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-6 and 8 is/are allowed.
- 6) ☒ Claim(s) 9-17,19,20 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed December 8, 2004 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “a first brace than extends from the third pontoon to either....., or b) the second pontoon” in claim 1, lines 15-16; “a second brace that extends from the third pontoon to either....., or b) the second pontoon” in claim 1, lines 18-20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the

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drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 13 and 29 are objected to because of the following informalities:

Claim 13, line 11: "a V-shaped brace" should be -- an inverted V-shaped brace --.

Claim 29, line 8: "stantions" should be -- stations --.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 9-12, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al in view of Salo (US 3,101,491).

Wooley et al discloses a barrier unit structure for a marine surface vessel comprising of: a composite-based durable barrier structure (12, 15), the barrier structure configured to hold a net (17) in place, wherein the protection apparatus protects an area in the body of water or abutting the body of water from waterborne craft, the structure including a beam (A) that spans an entire length of the barrier (see attached figure), wherein the beam is a composite-based structure in a range of 40 to 50 feet in length (see para. [0067]), the structure further comprising a plurality of net holding units (15) coupled to the beam (78) and disposed above the beam when the protection apparatus is placed in the body of water, the plurality of holding units configured to hold the net in place on, wherein the composite-based durable barrier structure is a fiberglass reinforced plastic durable barrier (see para. [0066]), a plurality of pontoons (74, 84) coupled to the barrier structure (12, 15) and configured to act as a floating component for the protection apparatus when the protection apparatus is placed in the body of water and a plurality of connectors/connecting cables for the adjacent barrier units as depicted in Fig. 12).

However, Wooley et al fails to disclose or fairly suggest each connector include a tensile member and dampening member. Salo discloses a mooring device comprising of: tensile member (3) configured to accept and dissipate a tensile force provided from the adjacent protection barrier units; and a dampening member disposed at least partially around the tensile member and configured, wherein the tensile member is a chain (3) having a plurality of links, and the dampening member including a polymer material/lubricating fluid inside, and a rubber outer structure (6) that is fitted around the polymer material (see Figs. 1-3; col.1, lines 40-72; col.2, lines 1-43).

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Therefore, in view of Salo, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to replace the connecting cables with the chain with rubber structure in order to avoid the impact pressure between the barrier structure caused by wave or current in the body of water.

With respect to an I-beam as the beam structure, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to use a conventional and notoriously old I-beam as an equivalent to the beam structure.

6. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al in view of Schweiger (US 1,418,332).

However, Wooley et al fails to disclose or fairly suggest disclose or fairly suggest a net station supports. Schweiger discloses a farm gate having a station supports (30) to abut the sides of the upstanding stations (1) as depicted in Fig. 1 (see pg.2, lines 97-120).

Therefore, in view of McDonald, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to add the station supports to the barrier's upstanding stations (B) in order to enhance reinforcement to the protective barrier.

7. Claims 13-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al as modified by Salo, and further in view of McDonald. The teachings of Wooley et al modified by Salo have been discussed above.

However, the teachings of Wooley et al modified by Salo fails to disclose or fairly suggest V-shaped braces to the battier units. McDonald discloses a fence protector having a V-shaped brace (8) as depicted in Fig. 1 as discussed above.

Therefore, in view of McDonald, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to further modify the barrier of Wooley et al modified by Salo, by adding the V-shaped braces to the barrier in order to enhance reinforcement to the protective barrier.

Response to Arguments

8. Applicant's arguments with respect to amended claim 1 are persuasive and the art rejections have been withdrawn.

Applicant's arguments with respect to amended claims 9, 13 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

9. Claims 1, 4-6 and 8 would be allowable over the prior art of record.

10. Claims 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

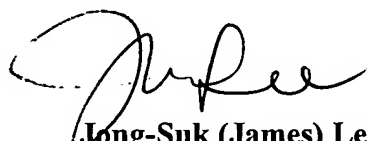
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl
January 25, 2005



Jong-Suk (James) Lee
Primary Examiner
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